

# **EXHIBIT 5**

Vladeck, Ph.D., Bruce C. - Vol. II  
New York, NY

June 21, 2007

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

-----X MDL NO. 1456  
IN RE: PHARMACEUTICAL INDUSTRY : CIVIL ACTION:  
AVERAGE WHOLESALE PRICE LITIGATION : 01-CV-12257-PBS  
-----X

THIS DOCUMENT RELATES TO: :  
U.S. ex rel. Ven-A-Care of the : CIVIL ACTION:  
Florida Keys, Inc. v. Abbott : 06-CV-11337-PBS  
Laboratories, Inc. :  
-----X

IN THE CIRCUIT COURT OF  
MONTGOMERY COUNTY, ALABAMA

-----X  
STATE OF ALABAMA, : CASE NO.  
Plaintiff, : CV-05-219  
v. :  
ABBOTT LABORATORIES, INC., : JUDGE  
et al., : CHARLES PRICE  
Defendants. :  
-----X

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<p style="text-align: right;">Page 346</p> <p>1 A. In a general way, yes, I do.</p> <p>2 Q. The Exhibit Abbott 258, this is the</p> <p>3 memo from you to June Gibbs Brown. And the third</p> <p>4 paragraph reads:</p> <p>5 "We note that the Health Security</p> <p>6 Act proposes the creation of a home drug infusion</p> <p>7 therapy benefit under Medicare, which, if passed</p> <p>8 intact, will cover the services and equipment</p> <p>9 associated with home drug infusion therapy."</p> <p>10 If you could take a look at Exhibit</p> <p>11 Abbott 260. And is Exhibit Abbott 260 a copy of</p> <p>12 the Health Security Act that is described in -- in</p> <p>13 your memorandum?</p> <p>14 A. It appears to be.</p> <p>15 Q. Do you recall the administration</p> <p>16 proposing the Health Security Act that's marked as</p> <p>17 Exhibit Abbott 260?</p> <p>18 A. I certainly do. The more general</p> <p>19 description of the Health Security Act was the</p> <p>20 President -- Mrs. Clinton's health care reform</p> <p>21 legislation.</p> <p>22 Q. And one very small piece of it, I</p>	<p style="text-align: right;">Page 348</p> <p>1 conjecture, but the logical group of people would</p> <p>2 have included Mr. Hoyer, to whom I referred</p> <p>3 earlier, Mr. Ault. Probably very much involved</p> <p>4 was Kathy Buto, whom I referred to the last day of</p> <p>5 deposition, but I suspect there may have been</p> <p>6 other people from the legislative staff involved</p> <p>7 as well, in particular because I know he was very</p> <p>8 much involved in Health Security Act issues, and I</p> <p>9 believe I referred to him the last day as well,</p> <p>10 Mr. Ira Burney, who was the Part B expert on our</p> <p>11 legislative staff.</p> <p>12 Q. The -- the memo from -- from you to</p> <p>13 Ms. Brown talks about the home drug infusion</p> <p>14 therapy benefit being proposed as part of the</p> <p>15 Health Security Act, covering the services and</p> <p>16 equipment associated with home drug infusion</p> <p>17 therapy.</p> <p>18 The negative implication of that is</p> <p>19 that Medicare currently does not cover the -- the</p> <p>20 services and equipment associated with home drug</p> <p>21 infusion therapy.</p> <p>22 Does that refresh your memory about</p>
<p style="text-align: right;">Page 347</p> <p>1 suspect, would have been this home infusion drug</p> <p>2 therapy services component?</p> <p>3 A. That's correct.</p> <p>4 Q. Do you recall specifically the home</p> <p>5 infusion drug therapy services component of the</p> <p>6 Health Security Act?</p> <p>7 A. If you had asked me prior to a few</p> <p>8 minutes ago whether there was such a provision in</p> <p>9 the proposed legislation, I couldn't have told</p> <p>10 you.</p> <p>11 Q. Do you recall that in the September</p> <p>12 1993 time period or -- or even earlier, I guess --</p> <p>13 it would have been earlier if this had already</p> <p>14 been proposed -- a discussion within CMS about</p> <p>15 creating an explicit benefit for home infusion</p> <p>16 drug services?</p> <p>17 A. I do not recall.</p> <p>18 Q. Who would most likely have been</p> <p>19 involved in the policy issues surrounding the</p> <p>20 creation of a home drug infusion therapy benefit</p> <p>21 under Medicare?</p> <p>22 A. I would -- this would be totally</p>	<p style="text-align: right;">Page 349</p> <p>1 what the -- the nature of Medicare's payment for</p> <p>2 home drug infusion therapy was in the '93 time</p> <p>3 period?</p> <p>4 MS. BROOKER: Objection. Form.</p> <p>5 A. I believe your suggestion or</p> <p>6 implication is incorrect. Medicare did not cover</p> <p>7 it as such prior -- well, at the time, and covered</p> <p>8 home fusion therapy as part of the durable medical</p> <p>9 equipment benefit, as we discussed earlier.</p> <p>10 Q. Okay.</p> <p>11 A. It was the same set of services</p> <p>12 under a different rubric, which was perhaps less</p> <p>13 appropriate as a way to manage the provision of</p> <p>14 that benefit than what was proposed in the Health</p> <p>15 Security Act, but services were still covered.</p> <p>16 Q. And -- and so, if I were a provider</p> <p>17 of home drug infusion services, at the time I</p> <p>18 would need to use either profit from the drug</p> <p>19 portion or the equipment portion of the payment to</p> <p>20 subsidize the services I was providing.</p> <p>21 Is that correct?</p> <p>22 MR. BREEN: Objection. Form.</p>

17 (Pages 346 to 349)

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